

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

ANTONY L. SMITH,

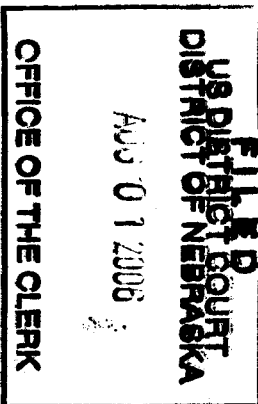
Plaintiff,

v.

COCA-COLA BOTTLING CO. OF
MID-AMERICA,

Defendant.

CASE NO. 4:04-cv-3329



PROTECTIVE ORDER

The parties to this action, by their respective counsel, have agreed to the entry of this protective order herein, and it is accordingly,

ORDERED that the confidentiality and proprietary nature of all documents, testimony, answers to requests for information and all other information in whatever form produced or given by any person pursuant to pre-hearing discovery in this action (hereinafter "Discovery Materials") shall be protected and governed as follows:

Any party, or a nonparty required to produce documents in connection with these proceedings, (hereinafter collectively referred to as "party") may designate any Discovery Materials that are deemed in good faith by that party to embody, reflect, refer to or otherwise disclose trade secrets or other information of a confidential or proprietary nature as confidential by either physically marking them as "confidential" or by separately producing and copying such information and notifying the discovering party in writing of their protected nature. All such confidential information including each and every portion thereof and any materials contained therein, (hereinafter "Confidential Discovery Materials") shall be used only for the purpose of

this proceeding between the parties and shall not be disclosed by a non-producing party to any person except:

- a. Counsel of record for any party, including associated or internal counsel, and the legal associates, clerical or other support staff of such counsel assisting in the preparation of this action;
- b. Those directors, officers and employees of the parties, and other parties, witnesses and potential witnesses, with whom counsel determines it is necessary to confer in the preparation of this action;
- c. Independent experts or consultants employed by counsel for the purpose of assisting counsel in this action;
- d. Witnesses and court reporters at any deposition, pre-hearing matter, arbitration hearing or other proceedings held in connection with this action;
- e. The Court and any appellate body which has cause to consider any of the issues raised in this action;
- f. Any other person upon written consent from the party which produced or gave such Confidential Discovery Materials; and
- g. Any other person or entity to whom this Court determines disclosure is appropriate.

Any person receiving Confidential Discovery Materials shall keep them separate and inaccessible and shall not reveal or discuss such materials to or with any person not entitled to disclosure as herein provided, and counsel shall instruct each recipient of his/her obligation hereunder.

If any party objects to another party's designation of Discovery Materials as confidential, it shall give counsel for the party making such designation written notice of such objection, setting forth the reasons supporting the objection. Counsel for the party making the designation shall then respond in writing to the objection within ten (10) business days of its receipt. If, after receiving the response, the party making the objection refuses to withdraw the objection, then that party may, upon reasonable notice, apply to the Court for a ruling on whether the Discovery Materials should be treated as confidential. Unless and until the Court enters an order changing the designation of said Discovery Materials, however, said Discovery Materials shall be treated as Confidential Discovery Materials as provided herein.

In the event that any Confidential Discovery Materials are used in connection with depositions, interrogatories, requests for information, requests for admission, motions, or any other pre-hearing matter, counsel for either of the parties may request a teleconference or conference with the Court for direction in the event that the parties cannot agree on whether and/or how the Confidential Discovery Materials shall be submitted, filed and maintained.

Counsel for the parties shall confer prior to any hearing of this action in an effort to agree upon a procedure to ensure the continuing confidentiality of Confidential Discovery Materials. In the event an agreement is not reached, however, counsel for either of the parties may request a teleconference or conference with the Court and the Court shall resolve the issue.

Upon termination of this action, including any appeals, all copies of Confidential Discovery Materials and all extracts, analyses, summaries, memorializations or notes derived therefrom shall either be returned to the producing party or shall be destroyed by the party in possession of same with written confirmation that complete destruction has taken place.

Nothing herein shall affect or restrict the rights of any party with respect to its own documents.

By agreeing to this Order, the parties shall not be deemed to have waived any objection available to them in response to any discovery.

This Order is without prejudice to the right of any party to seek its modification or amendment by further order of the Court.

ENTER this 1 day of August, 2006.



JUDGE, UNITED STATES DISTRICT COURT

SHIFFERMILLER LAW OFFICE

By 

Joy Shiffermiller
Nebraska Bar No. 18164

3930 South Street, Suite 101
Lincoln, NE 68506
Telephone: (402) 484-7700
Facsimile: (402) 484-7714

Attorney for Plaintiff

DEMARS, GORDON, OLSON & ZALEWSKI

By 

Jim Zalewski, Esq.
Nebraska Bar No. 16090

134 South 13th Street
Suite 800 (68508)
P.O. Box 81607
Lincoln, NE 68501-1607
Telephone: (402) 438-2500
Facsimile: (402) 438-6329

J. Y. Elliott, III
BPR No. 17344 (admitted pro hac vice)
Joseph Y. McCain, III
BPR No. 20203 (admitted pro hac vice)
MILLER & MARTIN PLLC
1000 Volunteer Building
832 Georgia Avenue
Chattanooga, TN 37402-2289
Telephone: (423) 756-6600
Facsimile: (423) 785-8293

Attorneys for Defendant